



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,589	08/29/2003	Russell W. White	1030-0001	9154
34456	7590	03/22/2006		
LARSON NEWMAN ABEL POLANSKY & WHITE, LLPL.L.P. 5914 WEST COURTYARD DRIVE SUITE 200 AUSTIN, TX 78746				
			EXAMINER ANDERSON, CATHARINE L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/652,589

Applicant(s)

WHITE ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 4/25/05.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Mark (US 2003/0060746).

Mark discloses a self-contained substance application system, as shown in figure 3, comprising a support member 31 defining a first cavity and a second cavity. A first substance is located in the first cavity, and a second substance is located in the second cavity. A first burstable membrane 34 and second burstable membrane 35 enclose the cavities. An applicator 42 is attached to the support member, and conduit 39 indicated the location of the first cavity.

With respect to claim 2, the support member 31 comprises a first support member 32 and a second support member 33, which each have an open end and a closed end, and are affixed to one another at their respective closed ends 36, as shown in figure 3.

With respect to claim 3, crimp 36 isolates the first and second cavities.

With respect to claim 5, the support member 31 has a linear configuration, as shown in figure 1. The support member 31 is tubular, as disclosed in paragraph [0024], and therefore has a circular cross section.

With respect to claim 6, the support member 31 defines a mouth of the first cavity at a first distal end, and a mouth of the second cavity at the second distal end, as shown in figure 3. A second applicator 41 is attached to the second mouth, and has a different appearance than the first applicator 42.

Claims 7, 9-10, 13-16, 19-20, and 22-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Crane (6,811,341).

With respect to claim 7, Crane discloses a method of removing an application system from a package, operating a delivery mechanism to initiate release of a substance from a cavity, releasing the substance to a porous applicator tip, and applying the substance, as described in column 6, line 42, to column 7, line 5. The application system is single use and therefore discarded after use, as disclosed in column 5, lines 5-6.

With respect to claim 9, the support member is a tube, and therefore has a round cross section. A plunger is depressed to operate the delivery mechanism, as disclosed in column 6, lines 49-60.

With respect to claim 10, the substance is combined with an initiator to convert the monomer to a polymer, as disclosed in column 6, lines 61-65.

Art Unit: 3761

With respect to claim 13, Crane discloses a substance application system, as shown in figure 11, comprising a cavity formed from a support member 1008. The cavity contains a substance 1020 comprising a fast polymerizable liquid monomer, as disclosed in column 11, line 39. An expulsion orifice 1032 is configured to release the substance, and an applicator tip 1026 is configured for depositing an adhesive film on a surface.

With respect to claim 14, the fast polymerizable liquid monomer comprises cyanoacrylate, as disclosed in column 5, lines 30-40.

With respect to claim 15, a delivery mechanism 1006 initiates release of the contained substance by rupturing a burstable membrane 1022, 1024, as shown in figure 11.

With respect to claim 16, a second cavity is provided comprising a second substance 1030, the second substance being different from the first substance, as disclosed in column 11, lines 43-44.

With respect to claim 19, the method comprises locating first and second substances and attaching an applicator to the support member, as disclosed in column 6, lines 28-39.

With respect to claim 20, the opening of the first cavity is enclosed by a burstable member 1024, as shown in figure 11.

With respect to claim 22, the support member and attached applicator are sealed in a container, as shown in figure 10.

Art Unit: 3761

With respect to claim 23, the support member is a tube, and therefore has a round cross section. The support member partially defines the first and second cavities, as shown in figure 11.

With respect to claim 24, the first cavity is isolated from the second cavity, as shown in figure 11.

With respect to claim 25, an indicator, first end 1032, identifies the location of the first cavity 1002, as shown in figure 11.

With respect to claim 26, the support member has a long axis, as shown in figure 11, and is a tube, which has an elliptical cross section.

With respect to claim 27, the first substance comprises a polymerizable liquid monomer, which is associated with an initiator, as disclosed in column 6, lines 61-65.

With respect to claim 28, a seal 1022 keeps the first substance in the first cavity, as shown in figure 11. A package contains the support member, protecting it from contamination, as disclosed in column 10, lines 33-35.

With respect to claim 29, an indicator, first end 1032, identifies the location of the first cavity 1002, as shown in figure 11.

With respect to claim 30, a second seal 1012 keeps the second substance in the second cavity, as shown in figure 11. A sterile applicator 1026 is attached to the support member 1008.

With respect to claim 31, a plurality of packages are contained in a box, as disclosed in column 10, lines 33-35.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mark (US 2003/0060746).

Mark discloses all aspects of the claimed invention with the exception of the first caving having a larger volume than the second cavity. It would have been obvious to one of ordinary skill in the art at the time of invention to make one cavity larger than the other to allow for different amounts of medicament to be applied to the patient.

Claims 8, 11-12, 17, 21, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crane (6,811,341) in view of D'Alessio et al. (6,595,940).

With respect to claim 8, Crane discloses all aspects of the claimed invention with the exception of squeezing the support member along a major axis to operate the deliver mechanism. D'Alessio teaches a substance application method involving squeezing the support member along a major axis to operate the delivery mechanism, as described in column 7, lines 40-45 to provide a simple yet effective application system, as disclosed in column 4, lines 19-20. It would therefore be obvious to one of ordinary skill in the art at the time of invention to apply the substance of Crane by

Art Unit: 3761

squeezing the support member, as taught by D'Alessio, to provide a simple yet effective application system.

With respect to claims 11 and 21, Crane discloses all aspects of the claimed invention with the exception of a second applicator tip. D'Alessio teaches a second applicator tip for application of the second substance, as disclosed in column 8, lines 17-23. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the support member of Crane with a second applicator tip, as taught by D'Alessio, to provide for separate application of the second substance.

With respect to claims 12, 17, and 32, Crane discloses all aspects of the claimed invention with the exception of an antiseptic agent. D'Alessio teaches an application system for applying cyanoacrylate to a patient, and discloses an initiator that comprises an antiseptic agent to promote healing of the wound site, as disclosed in column 11, lines 41-57. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the initiator of Crane with an antiseptic agent, as taught by D'Alessio, to promote healing of the wound site.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crane (6,811,341) in view of Mark (US 2003/0060746).

Crane discloses all aspects of the claimed invention with the exception of the applicator tip being cotton. Crane discloses the support member comprises plastic, as described in column 10, lines 55-56. Mark teaches an application system having a cotton applicator tip, as described in paragraph [0023], as a suitable material for

Art Unit: 3761

applying a treatment material to a wound. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the applicator tip of Crane of cotton, as taught by Mark, to provide a suitable material for applying a treatment material to a wound.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S Patent 4,863,422 discloses an application system having first and second cavities and applicators.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*CMF*

cla

March 20, 2006

*Patricia Bianco*  
PATRICIA BIANCO  
PRIMARY EXAMINER